

Appln. Serial No. 09/723,591
Reply to Office Action Mailed November 20, 2006

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REMARKS

In the Office Action dated November 20, 2006, claims 1-6, 8-13, 43, and 45-48 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,775,369 (McClung) in view of U.S. Patent No. 6,178,238 (Bozek); claims 37-40 were rejected under § 103 over U.S. Patent No. 6,798,767 (Alexander) in view of U.S. Patent No. 6,961,346 (Michalewicz); claim 7 was rejected under § 103 over McClung in view of Bozek and "Applicant's Admitted Prior Art" (AAPA); claim 14 was rejected under § 103 over McClung in view of Bozek and Alexander; claims 16-22 and 44 were rejected under § 103 over Alexander in view of AAPA; claims 23, 25-31, and 33-35 were rejected under § 103 over Alexander in view of AAPA and U.S. Patent No. 6,263,064 (O'Neal).

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INDEPENDENT CLAIMS 1, 3

With respect to independent claim 1, the Office Action continued to maintain the obviousness rejection of claim 1 over McClung and Bozek. In maintaining the rejection, it is respectfully submitted that the Examiner has fundamentally misunderstood the concept of cloning that is recited in claim 1. Significantly, according to claim 1, a request is received to clone a first terminal with a second terminal (in other words, the second terminal is a clone of the first terminal). According to claim 1, cloning has at least the following two features: (1) when a call request is received that specifies the logical identifier of the *first* terminal, an alert indication is sent to the *second* terminal (the terminal that clones the first terminal); and (2) when the *second* terminal initiates a second call session with a *third* terminal, profile information associated with the *first* terminal is accessed to process the second indication for establishing the second call session between the second and third terminals. In other words, when the second terminal is a clone of the first terminal, a call to the first terminal is sent to the second terminal (clone terminal), and a call initiated by the second terminal (clone terminal) with a third terminal accesses profile information of the first terminal.

Cloning, as defined by claim 1, is clearly not suggested by either McClung or Bozek, either individually or in combination. The Office Action basically has cited McClung as disclosing the incoming call processing tasks of claim 1, and cited Bozek as disclosing the outgoing call initiation tasks of claim 1. However, the rejection is defective since the Office Action is attempting to combine concepts of the two references that have nothing to do with the cloning features as recited in claim 1.

McClung describes a *roaming* feature in which a call manager 26 can direct a call to multiple telephony devices that are associated with the same extension. See McClung, 9:43-45. On the other hand, Bozek describes a speed dial calling mechanism that allows a user to place calling card calls (that include speed dialing numbers) using a switch that is not the home switch of the user. Bozek, Abstract. In such a case, as explained by Bozek, when a caller at a telephone station makes a calling card call, the caller is switched through an away switch to a calling card server switch, which calling card server switch accesses a calling card database to obtain information regarding the speed dialing number. Bozek, 2:45-60.

Fundamentally, note that Bozek is related to speed dial lookup when the user is at an away location. There is clearly no suggestion in Bozek of the user being at a clone terminal (second terminal) initiating a call session with a third terminal in which profile information

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associated with the first terminal (that the second terminal is cloning) is accessed to establish the call session between the second and third terminals. Basically, Bozek relates to a simple database lookup for speed dial information, and is unrelated to the cloning features recited in claim 1.

McClung is also unrelated to the cloning features of claim 1. As discussed above, McClung simply enables a user to roam to a remote location, where the user can specify that the call manager direct calls to multiple telephony devices associated with the extension. Thus, at its core, McClung is simply a call forwarding feature to enable roaming by a user. McClung provides no suggestion that it would be even desirable to enable a user at a clone terminal (second terminal) to establish a call session with a third terminal by accessing the profile information of a first terminal. *See In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992) ("The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the *desirability* of the modification.") (emphasis added). Here, neither McClung nor Bozek provides any suggestion, implicit or explicit, of the desirability of the cloning features recited in claim 1, which cloning features are related to call processing in response to a call request intended for the first terminal, and call processing in response to a request from the second terminal (clone terminal) for initiating another call session with a third terminal. Therefore, no motivation or suggestion existed to combine the teachings of McClung and Bozek.

The present Office Action provided the following further assertion to support the obviousness rejection:

[T]he proposed combination of McClung and Bozek would use the roaming method of McClung for incoming calls, while the method of Bozek would be used to handle outgoing calls. This provides the benefit of allowing the user to access speed dialing features for outgoing calls without requiring the mechanism of McClung to be changed for incoming calls. In the next paragraph, Applicant further states that the terminal in Bozek is not a clone. However, McClung disclosed the cloning feature and Bozek is used to modify the clone terminal in McClung.

11/20/2006 Office Action 2-3.

The proposed modification of McClung based on Bozek is clearly erroneous, as detailed above. The incoming call and outgoing call portions of claim 1 are not unrelated call processing tasks – both involve a second terminal that is a clone of the first terminal. The Office Action simply stated that "Bozek is used to modify the clone terminal in McClung." *Id.* at 3. However,

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what the Office Action failed to appreciate is that there existed no suggestion to make this proposed modification. No teaching or suggestion is provided in either McClung or Bozek of processing an outgoing call from the second terminal (clone terminal) in the manner recited in claim 1. Therefore, since no motivation or suggestion existed to combine the teachings of McClung and Bozek in the manner proposed by the Office Action, a *prima facie* case of obviousness has clearly not been established with respect to claim 1. See M.P.E.P. § 2143 (8th ed., Rev. 5), at 2100-126.

Moreover, the hypothetical combination of McClung and Bozek does not teach or suggest the claimed subject matter. The Office Action conceded that McClung fails to disclose the "outgoing" aspect of claim 1 ("receiving a second indication from the second terminal for initiating a second call session with a third terminal" and "accessing profile information associated with the first terminal to process the second indication for establishing the second call session"). Bozek similarly fails to teach or suggest receiving a second indication from the second terminal (that is a clone of the first terminal) for initiating a second call session, and accessing profile information associated with the *first* terminal to process the second indication for establishing the second call session between the second terminal and the third terminal. This is a further basis that a *prima facie* case of obviousness has not been established with respect to claim 1.

With respect to independent claim 3, the Office Action conceded that McClung does not disclose receiving a call request from the second terminal or accessing profile information of the first terminal in response to the call request (the last two acts recited in claim 3). 11/20/2006 Office Action at 9. However, the Office Action again relied upon Bozek as disclosing these last two elements recited in claim 3. It is respectfully submitted, as discussed above, that no motivation or suggestion existed to combine McClung and Bozek to achieve the claimed subject matter, and even if they can be combined, the hypothetical combination of McClung and Bozek does not teach or suggest all elements of claim 3.

Therefore, a *prima facie* case of obviousness has also not been established with respect to claim 3.

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INDEPENDENT CLAIM 37

Claim 37 continues to be rejected as being obvious over Alexander and Michalewicz. With respect to claim 37, the Office Action conceded that Alexander does not disclose that its IP telephony device includes a plurality of soft client modules that become clones of respective terminals, as recited in claim 37. 11/20/2006 Office Action at 13. Instead, the Office Action relied upon Michalewicz as disclosing these soft client modules. *Id.* Specifically, the Office Action cited column 6, lines 33-37, of Michalewicz, which describes a call manager 26a that has software for implementing one or more virtual telephony devices. As explained by Michalewicz, the virtual telephony devices are logically inserted between two or more IP telephony devices to act as an intermediary between the telephony devices. Michalewicz, 6:38-40. Once the relationship is set up, signaling and media streams that pass through the virtual telephony device may be modified through address translation or data stream manipulation. Michalewicz, 6:40-44. As noted by Michalewicz, an implementation of a virtual telephony device is a bridge 28 (depicted in Fig. 1 of Michalewicz). Michalewicz, 6:35-37. There is absolutely no suggestion whatsoever in Michalewicz that its virtual telephony devices constitute the soft client modules that become clones of respective terminals, where each soft client module becomes a clone of a respective terminal by sending a request to a server on a network to select one of the terminals to clone.

In response to Applicant's argument that the virtual telephony devices of Michalewicz are not clones of other terminals, the Office Action stated that "[w]hile this may or may not be true, it is not relevant as this functionality has been disclosed by Alexander as indicated earlier in the rejection." 11/20/2006 Office Action at 3. The fact that Michalewicz does not suggest multiple soft client modules that are clones of respective terminals, which soft client modules are executable on a control unit of a system, is clearly relevant to the obviousness rejection. With respect to Alexander, the Office Action cited column 12, lines 55-65, as disclosing "sending a request to a server ... to select a terminal to clone" *Id.* at 13. The cited passage refers to the editing of an alternate number list 110 by a user, where the alternate number list 110 is used to "create multiple line appearances (e.g., ring multiple telephony devices) when a call is placed to an IP telephony device." Alexander, 7:26-31. However, there is absolutely no suggestion within Alexander of providing multiple soft client modules executable on a control unit of a system, where the soft client modules become clones of respective terminals. Michalewicz clearly does not provide the requisite suggestion to modify Alexander to achieve the claimed subject matter.

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With respect to Michalewicz, the Office Action further cited to column 6, lines 26-38, as suggesting the presence of the multiple soft client modules recited in claim 37. *See* 11/20/2006 Office Action at 3. The cited passage of Michalewicz indicates that the virtual telephony devices of Michalewicz can be implemented as software, and that the call manager 26a may contain software for implementing one or more virtual telephony devices. However, the fact that virtual telephony devices can be implemented as software on a call manager 26a does not change the fact that the virtual telephony devices of Michalewicz do not constitute the soft client modules that become clones of respective terminals, where each soft client module becomes a clone of a respective terminal by sending a request to a server on a network to select one of the terminals to clone. A person of ordinary skill in the art would not have been motivated to modify the teachings of Alexander with the teachings of Michalewicz, as incorporating the virtual telephony devices of Michalewicz into Alexander would not provide the plural soft client modules that become clones of respective devices recited in claim 37.

In view of the foregoing, it is clear that the hypothetical combination of Alexander and Michalewicz does not teach or suggest all elements of claim 37. Moreover, no motivation or suggestion existed to combine the teachings of Alexander and Michalewicz to achieve the claimed subject matter. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 37.

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INDEPENDENT CLAIM 16

Independent claim 16 was rejected as being obvious over Alexander and AAPA. The Office Action conceded that Alexander fails to disclose associating a first logical port between a telephony proxy server and a switch module with both the first and second terminals, and forwarding, by the switch module, the call request through the first logical port to the telephony proxy server. 11/20/2006 Office Action at 17. The Office Action cited AAPA as disclosing use of logical ports between a TPS and a switch. *Id.* Although the Background section of the present application mentions that a logical port can be reserved in a switch for a telephony client, there is absolutely no suggestion in the Background section of the present application, or in Alexander, of associating a first logical port between a TPS and a switch module with *both* the first and second terminals. Moreover, there is no suggestion in the Background section of the present application of forwarding, by the switch module, the call request (which specifies the second terminal) through the first logical port to the telephony proxy server.

Alexander provides no hint whatsoever that it would even be desirable to incorporate a TPS and a switch module with a logical port provided therebetween. Moreover, there is no suggestion in either Alexander or the Background section of the present application of associating a logical port between a TPS and switch module with *both* the first and second terminals.

It is important to note that the purported association between "two terminals in response to the request in the updated alternate number list" referred to in Alexander is an association based on an alternate number list. The Office Action stated that "[t]he call manager [of Alexander] performs the exact same functionality as the article in the claim language; there are merely semantic differences in how this functionality is described." *Id.* at 4. This statement is clearly erroneous, as the subject matter of claim 16 is *substantively* different (not just semantically different) from what is disclosed by Alexander. The association using an alternate number list, as taught by Alexander, is completely different from associating a first logical port between a telephony proxy server and a switch module with both first and second terminals, as claimed.

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Despite the significant differences between the subject matter of Alexander and the claimed invention, the Office Action used impermissible hindsight reconstruction to make the following assertion:

Alexander teaches the limitation of associating the first and second terminals and the AAPA discloses that the logical port software construct is merely a well-known way of implementing such a system; given the association of Alexander, it is obvious to implement it using the logical port construct of the AAPA.

11/20/2006 Office Action at 5.

There clearly did not exist any motivation or suggestion of replacing the alternate number list of Alexander with the logical port reserved by a terminal proxy server in a switch for a telephony client described in the Background section of the present application. The *prima facie* case of obviousness with respect to claim 16 is defective for at least this reason.

Moreover, there clearly did not exist any suggestion by either Alexander or AAPA of associating *one* logical port between a TPS and a switch module with *both* first and second terminals. No mention of the logical port between a TPS and switch module is made in Alexander. The AAPA merely states that the TPS reserves *a* logical port in the switch for *the* telephony client (note the singular sense). Thus, since neither Alexander nor AAPA teaches or suggests the subject matter of claim 16, the hypothetical combination of the references also does not teach or suggest all elements of claim 16. The *prima facie* case of obviousness is defective for this additional reason.

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INDEPENDENT CLAIM 23

Independent claim 23 was rejected as being obvious over Alexander, AAPA, and O'Neal. In view of the fact that there existed no motivation or suggestion to combine Alexander and AAPA, it is respectfully submitted that no motivation existed to combine the teachings of Alexander, AAPA, and O'Neal.

Moreover, the Office Action conceded that Alexander does not disclose storing a table associating identifiers of the first and second terminals with a first logical port. 11/20/2006 Office Action at 20. However, the Office Action relied upon AAPA as disclosing the use of a logical port. However, AAPA does not suggest storing a table associating identifiers of *both* first and second terminals with a first logical port. As noted above, based on the discussion above with respect to claim 16, it is respectfully submitted that no motivation or suggestion existed to combine the teachings of Alexander and AAPA, and thus the obviousness rejection over Alexander, AAPA, and O'Neal is also defective.

In addition, the Office Action conceded that Alexander and AAPA do not teach updating a table to indicate that one of the first and second terminals that answered the call requests is the terminal to which subsequent call requests containing the first logical identifier are to be directed. *Id.* at 21. However, the Office Action cited O'Neal as teaching this element. Specifically, the Office Action pointed to column 12, lines 54-57, of O'Neal as teaching this recited element. The cited passage refers to a "follow me" service that uses the number where the subscriber was last located (stored in memory) as the first number to dial in the sequence. Note, however, that even O'Neal does not teach or suggest updating a *table* (that associates identifiers of first and second terminals with a first logical port) to indicate that one of the first and second terminals that answered the call request is the terminal to which subsequent call requests containing the first logical identifier are to be directed.

The Office Action further stated that Alexander discloses the use of an alternate device table, and thus, this alternate device table of Alexander would be used in the combination of Alexander, AAPA, and O'Neal. 11/20/2006 Office Action at 6. This type of rejection in which elements of prior art references are piece-meal combined without regard to any motivation or suggestion to make the proposed combination is a classic example of impermissible hindsight. *See In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

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The Office Action further made the following statement:

If the teaching of O'Neil were applied such that the indication of which terminal answered the call request were merely generically updated in "memory", as Applicant appears to suggest, this indication would not be useful. Only when associated with the same information used in processing the call requests in Alexander (i.e. the table) will this information be useful.

11/20/2006 Office Action at 6.

The updating of the indication in the follow-me service of O'Neil is clearly "useful" in the context of the follow-me service of O'Neil. The fact that the Office Action conceded that the updating of the indication of O'Neil would not be "useful" in Alexander is clearly indicative of the fact that a person of ordinary skill in the art would not have been motivated to modify Alexander based on the teachings of O'Neil. Even the Examiner recognizes that incorporating the update of the indication of O'Neil in the Alexander system "would not be useful." Rather than recognize this point, the Office Action incorrectly asserted that it would have been obvious to replace the indication of O'Neil with the table of Alexander, where no suggestion or motivation existed for such a combination.

In view of the foregoing, it is clear that the Office Action has failed to establish a *prima facie* case of obviousness with respect to claim 23.

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CONCLUSION

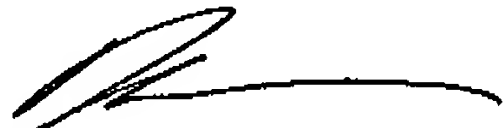
Dependent claims are allowable for at least the same reasons as corresponding independent claims. Moreover, in view of the fact that the obviousness rejection of base claim 1 over McClung and Bozek is defective, it is respectfully submitted that the obviousness rejection of dependent claim 7 (which depends indirectly from claim 1) over McClung, Bozek, and AAPA is also defective. Similarly, in view of the fact that the obviousness rejection of base claim 1 over McClung and Bozek is defective, the obviousness rejection of dependent claim 14 (which depends indirectly from claim 1) over McClung, Bozek, and Alexander is also defective.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No: 20-1504 (NRC.0008US).

Respectfully submitted,

Date: _____

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